

§ 820.62

permanent exemption from that requirement as requested by any person subject to its provisions; provided that, the Secretarial Officer responsible for environment, safety and health matters shall exercise this authority with respect to provisions relating to radiological protection of workers, the public and the environment. This authority may not be further delegated.

§ 820.62 Criteria.

The criteria for granting an exemption to a DOE Nuclear Safety Requirement are determinations that the exemption:

- (a) Would be authorized by law;
- (b) Would not present an undue risk to public health and safety, the environment, or facility workers;
- (c) Would be consistent with the safe operation of a DOE nuclear facility; and
- (d) Involves special circumstances, including the following:
 - (1) Application of the requirement in the particular circumstances conflicts with other requirements; or
 - (2) Application of the requirement in the particular circumstances would not serve or is not necessary to achieve its underlying purpose, or would result in resource impacts which are not justified by the safety improvements; or
 - (3) Application of the requirement would result in a situation significantly different than that contemplated when the requirement was adopted, or that is significantly different from that encountered by others similarly situated; or
 - (4) The exemption would result in benefit to human health and safety that compensates for any detriment that may result from the grant of the exemption; or
 - (5) Circumstances exist which would justify temporary relief from application of the requirement while taking good faith action to achieve compliance; or
 - (6) There is present any other material circumstance not considered when the requirement was adopted for which it would be in the public interest to grant an exemption.

10 CFR Ch. III (1–1–09 Edition)

§ 820.63 Procedures.

The Secretarial Officer shall utilize any procedures deemed necessary and appropriate to comply with his responsibilities under this subpart. All exemption decisions must set forth in writing the reasons for granting or denying the exemption, and if granted, the basis for the determination that the criteria in § 820.62 have been met and the terms of the exemption. All exemption decisions must be filed with the Office of the Docketing Clerk which shall maintain a docket for exemption decisions issued pursuant to this subpart.

§ 820.64 Terms and conditions.

An exemption may contain appropriate terms and conditions including, but not limited to, provisions that :

- (a) Limit its duration;
- (b) Require alternative action;
- (c) Require partial compliance; or
- (d) Establish a schedule for full or partial compliance.

§ 820.65 Implementation plan.

With respect to a DOE Nuclear Safety Requirement for which there is no regulatory provision for an implementation plan or schedule, an exemption may be granted to establish an implementation plan which reasonably demonstrates that full compliance with the requirement will be achieved within two years of the effective date of the requirement without a determination of special circumstances under § 820.62(d).

§ 820.66 Appeal.

Within fifteen (15) days of the filing of an exemption decision by a Secretarial Officer, the person requesting the exemption may file a Request to Review with the Secretary, or the Secretary may file, *sua sponte*, a Notice of Review. The Request to Review shall state specifically the respects in which the exemption determination is claimed to be erroneous, the grounds of the request, and the relief requested.

§ 820.67 Final order.

If no filing is made under § 820.66, an exemption decision becomes a Final Order fifteen (15) days after it is filed